

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MCC TELEPHONY OF IOWA, INC.	DOCKET NOS. TCU-04-4 WRU-04-6-3755
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ORDER GRANTING APPLICATION AND GRANTING WAIVER

(Issued April 1, 2004)

On February 13, 2004, MCC Telephony of Iowa, Inc. (MCC), filed with the Utilities Board (Board) an application for issuance of a certificate of public convenience and necessity, pursuant to Iowa Code § 476.29 (2003), stating its initial intention to provide telecommunications services in certain exchanges currently being served by Qwest Corporation (Qwest). MCC also states that it intends to provide Voice Over Internet Protocol (VoIP) services to residential and business customers in those exchanges where MCC affiliates own and operate high-speed cable modem services. MCC states that it intends to provide voice and data telecommunications services, but requests authority to provide a full range of telecommunications services. The application has been identified as Docket No. TCU-04-4. MCC has provided the qualifications of its company officers and financial statements and has stated it will support a 2-PIC methodology for dialing parity.

Iowa Code § 476.29(2) provides that a local exchange carrier shall not be denied a certificate if the Board finds that the applicant "possesses the technical,

financial, and managerial ability to provide the service it proposes to render and the Board finds the service is consistent with the public interest."

MCC states that notice of this application was provided to all affected carriers. MCC also states that it will provide access, to the extent required and applicable, to ordinary intraLATA and interLATA message toll calling, operator services, directory assistance, directory listings, and emergency services such as 911 and E911 (subject to technical limitations) either through its own operations or by acquiring those services from underlying carriers.

The Board has reviewed MCC's application and finds the necessary technical, financial, and managerial abilities to provide local exchange service have been demonstrated. It is in the public interest to approve MCC's application.

Iowa Code § 476.29(4) requires that each certificate define the service territory in which local telephone service will be provided and authorizes the Board to promulgate rules establishing the requirements for filing maps showing the service territory. Subrule 199 IAC 22.20(3) requires that all utilities have maps on file with the Board that show exchange boundaries. MCC states that it intends to file service maps unique to its network topography following the Board's approval of its application.

MCC has not filed proposed tariffs for Board approval setting out the prices, terms, and conditions of MCC's local exchange service in Iowa. The Board finds that

a certificate should not be issued to MCC until it has an approved tariff on file with the Board and has submitted appropriate service maps.

MCC also requests the Board waive the requirements of 199 IAC 16.5(2), 18.2, and 22.3(1). The waiver request has been identified as Docket No. WRU-03-48-419.

MCC requests a waiver of 199 IC 16.5(2), which requires the keeping of a records accounting system in accordance with the FCC uniform system of accounts. MCC states it will maintain its books in accordance with generally accepted accounting principles (GAAP). The Board finds this waiver should be granted since records kept in accordance with GAAP accounting have been acceptable for a competitive local exchange service provider.

MCC also requests the requirements of 199 IAC 18.2 be waived. The rule requires that a regulated public utility keep its records in Iowa. The Board will grant the waiver based on MCC's statement that it will make the records available to the Board upon request.

MCC also requests a waiver of 199 IAC 22.3(1), requiring it to independently publish a directory. The Board will grant the waiver based upon MCC's statement that it will arrange for its customers to be included in the directories published in the areas it provides local exchange service.

Rule 199 IAC 1.3 states that the Board may grant waivers if it finds, based upon clear and convincing evidence, that the application of the rule would pose an

undue hardship, the waiver would not prejudice the substantial legal rights of any person, the provisions waived are not specifically mandated by statute, and substantially equal protection of public health, safety, and welfare will be afforded after the waiver. The Board has considered the waiver requests as described above and finds that the waiver meets the four criteria of the rule and the evidence in support of the waiver is clear and convincing.

Adherence to these rules would be an undue hardship on MCC because each rule would involve additional expense without necessity or benefit. The Board finds there are no substantial legal rights of any person that are affected by these waivers and there is no statute that specifically mandates the actions waived. Additionally, the Board finds that there will be substantial equal protection for health, safety, and welfare provided since the actions waived will be completed under different circumstances.

IT IS THEREFORE ORDERED:

1. The application for a certificate of public convenience and necessity filed by MCC Telephony of Iowa, Inc., on February 13, 2004, is granted subject to the requirements that follow.
2. The Board will issue a certificate of public convenience and necessity allowing MCC Telephony of Iowa, Inc., to provide local exchange service upon approval of tariffs reflecting the prices, terms, and conditions of local exchange service in Iowa.

3. Before offering local exchange services, MCC Telephony of Iowa, Inc., shall file with the Board appropriate maps that designate its exchange boundaries pursuant to Iowa Code § 476.29(4) and 199 IAC 22.20(3).

4. The waiver of 199 IAC 16.5(2), 18.2, and 22.3(1), identified as Docket No. WRU-04-6-3755, is granted as described in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 1st day of April, 2004.